

TO/PCT Docket 27 FEB 2002

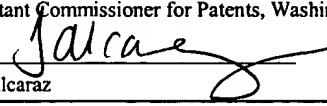
PATENT
Docket No. 412692000403

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Tamara Alcaraz

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

D. Laksen SIRIMANNE et al.

Serial No.: 09/869,282

Filing Date: June 25, 2001

For: DEVICES AND METHODS FOR
MARKING OF A BIOPSY CAVITY (AS
AMENDED)

Examiner: To Be Assigned

Group Art Unit: To Be Assigned

DECLARATION OF STEVEN KIM

Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Steven Kim, declare as follows:

1. I currently reside at 1256 Roycott Way, San Jose, 95125.
2. I am the Director of Intellectual Property for Vivant Medical Inc. the assignee the above referenced application.
3. If called to testify I could competently attest to the following facts:

On September 5, 2001, our patent attorneys mailed to us a Notification of Missing Requirements under 35 U.S.C. §371 from the United States Patent Office for patent application serial number 09/869,282. On September 10, 2001 I mailed application papers including

Declarations to the last known mailing addresses for the following inventors listed on the application: Natalie Fawzi, Gail Lebovic, Stanley Conston, Peter Wilson, Ann Morrisey, M. Elizabeth Bush, D. Laksen Sirimanne, Natalie Fawzi, and Douglas Sutton. I received returned executed Declarations from all but the following inventor: D. Laksen Sirimanne.

On January 22, 2002, I sent a second letter to D. Laksen Sirimanne again requesting execution of the Declarations.

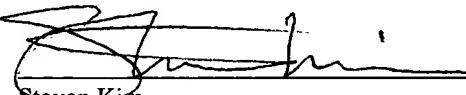
Additionally, on February 26, 2002, I placed a telephone call to D. Laksen Sirimanne in an attempt to contact him to obtain an executed Declaration. I believe that I had the correct telephone number for the inventor. However, I was unable to directly speak with him and was only able to leave a message.

The deadline to respond to the Notification of Missing Requirements under 35 U.S.C. §371 is February 27, 2002.

I believe that I have made a diligent effort to contact the D. Laksen Sirimanne and that either he refuses to join in the application or he cannot be found or reached after diligent effort.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2/26/02
Date


Steven Kim